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THE IMPORTANCE
OF A THOROUGH
CONGRESSIONAL INVESTIGATION
OF THE RELATIONS OF
Railroad Transportation
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(From "THE RAILWAY AGE" of January 31, 1902.)

BY JOSEPH NIMMO, JR.,
Statistician and Economist.

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The Relations of Railroad Transportation to the Public Interests.

By JOSEPH NIMMO, JR.

At the present time the public mind is stirred by intense and varied questioning in regard to the relations of the railroads to the public interests. The subjects of denunciation and of debate embrace questions involving the fundamental principles of our form of government, constitutional and legal questions, questions of public policy, economic and commercial questions, and questions touching the history and the theory and practice of railroad transportation, in so far as relates to the public interests. Some of these inquiries relate to issues growing out of changed conditions, and are properly matters of governmental concernment, while others have their origin solely in the imagination of the evangels of discontent, who find abundant field for the exercise of their speculations in the general incertitude which prevails in regard to the real status of affairs. These and other considerations suggest the importance of a thorough and impartial congressional investigation of the many-sided and complex question as to the relations of the railroads to the public interests.

It is certain that the duty of instituting such inquiries cannot be assigned to any administrative body. It cannot be delegated to the Interstate Commerce Commission, since the investigations and the acts of that body are, in the language of Mr. Justice Shiras, "confined to the obvious purposes and directions of the statute" which define its function. This the Commission clearly apprehends. In

its fourteenth annual report, submitted December 24th, 1900, the Commission said :

"With respect to many of these combinations the Commission has and can have no official knowledge. * * * The Commission is given authority 'to enquire into the management of the business of all common carriers subject to the provisions of this act, and to keep itself informed as to the manner and method in which the same is conducted,' but this has never been construed by it to refer to the mere financial operations of railways engaged in interstate traffic."

Clearly such inquiries, involving as they do questions of public policy of the highest political moment, must be considered by Congress and its committees.

It is a somewhat astonishing fact that there has been but one such investigation as that here recommended since the advent of railroad transportation in this country, namely, the investigation of 1886. Since that time important changes have taken place in controlling economic and commercial conditions.

We may profit very much in regard to this important subject from the example of Great Britain. The British Parliament began the investigation of the peculiar commercial, economic and political aspects of tramways in the year 1801—a little more than one hundred years ago. Since the advent of steam railroads, about the year 1830, there have been many parliamentary investigations in Great Britain concerning the relations of the railroads to the public interests. The most notable of these are the investigations of 1840, 1844, 1846, 1852, 1865, 1872, 1881, 1888 and 1893-'94. The printed report of the Commission of 1872 is a quarto volume of 1,189 pages, nearly as large as a Webster's Dictionary. The report of 1893-'94 is also a quarto volume of nearly 700 pages. In these various reports all the more important commercial, economic and political conditions governing the railroad transportation

question in Great Britain have been investigated and reported upon. Theories and notions about railroad management and regulations have also been reported upon—some of them quite as visionary and as absurd as those which now command public attention in this country. As the result of these elaborate parliamentary inquiries, abuses of various sorts have been abated, mistaken ideas in regard to the management and regulation of the railroads of Great Britain have been corrected, sensible remedial expedients have been adopted, many questions at issue have been amicably settled, and public discontent has been allayed. Thus, British statesmen, following the historic example of their illustrious predecessors, have from time to time, in the language of Mr. Gladstone, "submitted themselves to the lessons of experience and to the lessons of the hour."

How different has been the course pursued toward the railroads of this country by our National Government. With an area (exclusive of Alaska and our insular possessions) twenty-five times that of the United Kingdom of Great Britain and Ireland, and with a railroad mileage of 192,161 miles as against 22,000 miles in Great Britain, as before stated, we have had only one congressional investigation of the railroad question, namely, the Senate inquiry of 1886, which resulted in the Interstate Commerce Act of February 4, 1887*. That investigation related to the cure of certain causes of complaint. What is now needed is an inquiry relating to the organization of our vast American Railroad System, its relationships to the social, commercial and industrial interests of the country, the benefits which it has conferred, the evils which have incidentally arisen in the course of its development, and the proper course to be pursued in the attempt to cure those evils. This ap-

* The Windom Senate Committee Report of 1873 was essentially the result of an inquiry in regard to the construction or improvement of certain water routes.

pears to be the supreme duty of the hour. It is a duty which cannot be evaded if legislation in regard to the most important material interests of this country is to be based upon the certain lessons of experience, and not upon the uncertain leadings of public clamor.

If the eminently wise and wholesome example set by Great Britain is to be followed the proposed inquiry will involve many hundred and even thousands of inquiries. Without any attempt to formulate a definite scheme of investigation, I submit, off-hand, some of the topical features of such a congressional investigation.

1. The American Railroad System being the product of an evolution, what are the more important evolved laws of its being in so far as relates to present causes of complaint?

2. Is the Railroad System of the United States so constituted in law and in commercial and economic conditions as to justify and render necessary regulations and agreements in the nature of self-government?

3. What are the logical sequences of the Act of June 15, 1866, commonly known as "The Charter of the American Railroad System" in so far as relates to railroad combinations and railroad regulations?

4. To what extent have the organic features of the American Railroad System been recognized and formally legalized by the government of the United States and by the different States?

5. To what extent and in what manner should the railroads be allowed to make regulations controlling their own interaction, with the object in view of maintaining the orderly conduct of the American Railroad System?

6. Are rate agreements a necessary and beneficent feature of the physical and traffic unity of the American Railroad System?

7. In what manner and to what extent are the requirements of the Interstate Commerce Law based upon expe-

dients adopted by the railroads for the purposes of self-government?

8. Has the physical and traffic unity of the railroads of the United States been productive of public benefits, and if so, in what manner can such benefits be preserved and rendered more productive of good?

9. Has the physical and traffic unity of the railroads of the United States been productive of evils, and if so in what manner can those evils be abated?

10. To what extent, have the agreements in the nature of self-government entered into between railroad companies proved to be conservative of the interests of transportation of trade and of the public interests generally?

11. In what manner and to what extent have restraints upon the freedom of competition proved to be protective of the interests of transportation, of commerce and of industry, and in what manner and to what extent have such restraints proved to be detrimental to the interests of transportation, of commerce and industry?

12. To what extent and in what manner has the limitation of competition by combination been productive of good in railroad transportation and to what extent and in what manner has the limitation of competition by combination been productive of evil in railroad transportation?

13. Has the fact that the railroad is a free highway of commerce to all shippers but not to all carriers given rise to any dangerous monopolistic tendencies?

14. To what extent, and in what particulars has the mediatorial and judicial method of regulation embodied in the "Interstate Commerce Act" been effective and beneficial?

15. What additional legislation in the line of governmental regulation expressed in the Interstate Commerce Act is desirable in order to increase the efficiency of that mode of regulation?

16. What has been the result in the States of this country and in other countries of granting to governmental commissions or other agencies the power to prescribe rates for the future?

17. In what respects, having regard to commercial, economic and political considerations, can the consolidation of competing or tributary lines of railroad be regarded as opposed to sound views of public policy?

18. Are there any substantial reasons in present or in past experiences for assuming that the "community of interests" method of regulating railroad traffic will prove to be detrimental to the public interests in the matter of rates or of facilities afforded to the commerce and industry of the country; and if so, what are those reasons?

19. Does the "community of interest" method of regulating railroad traffic present any feature of monopoly not inherent in the physical peculiarities of the railroad as a highway of commerce, or in the physical unity of the American Railroad System?

20. Is it possible to confer upon the Interstate Commerce Commission the legislative power to prescribe rates, and the "rules, regulations and conditions for freight transportation" and at the same time to hold such authority subject to judicial limitations?

21. Would the endowment of the Interstate Commerce Commission with full judicial and legislative authority over interstate transportation confer upon the Commission autocratic power incompatible with the principles of American Government?

22. What would be the commercial and political effects of a law which would throw upon the National Government the responsibility of determining the course of the commercial and industrial development of this country, as the result of granting to a Bureau of the Government the power to determine both absolute and relative rates of

transportation, throughout this country, and the "rules, regulations and conditions for freight transportation?"

23. Should the determination of the Interstate Commerce Commission have judicial power or influence beyond the existing provisions of law that its "findings of fact shall be prima facie evidence of the matters therein stated?"

24. In what manner can the Act to Regulate Commerce be amended, so as to give greater effectiveness to the orders of the Commission directing carriers to cease and desist from any unlawful action?

25. In what manner and to what extent does rate cutting effect the commercial and industrial interest of this country?

26. What expedients and what guarantees for the maintenance of published rates are practicable and proper?

27. To what extent are rate wars the result of commercial interaction, and to what extent are they the result of reprehensible practices which should be prohibited by statutory enactment?

28. How do the rates for railroad transportation in the United States compare with the rates for transportation charged in other countries?

29. How do the facilities for railroad transportation in the United States compare with the facilities for railroad transportation in other countries?

30. How do the rates for railroad transportation and the facilities for railroad transportation in this country compare with the rates and facilities for railroad transportation in this country twenty, thirty and forty years ago?

31. Is it true, as indicated by official data, that exorbitant rates are practically obsolete in this country?

32. Is it true, as indicated by official data, that unjust discriminations in this country have been reduced to comparatively insignificant proportions?

33. How do advances in wages and in the prices of materials compare with changes in rates for transportation during the last five years?

34. Is the margin between railroad receipts and expenditures in this country widening or narrowing, and to what extent?

35. Have the facilities for collecting, forwarding and delivering freights exhibited an improvement commensurate with the increase of traffic during the last five years?

36. What have been the general results of railroad transportation in the United States in so far as relates to the development of the agricultural, mining and industrial interests of the country, the increase of population and the general welfare?

This schedule of inquiries is not assumed to be in the nature of a systematic investigation of the railroad transportation question in this country. It is believed, however, that the proposed inquiries at least roughly formulate the general scope and nature of questions which are now the subject of public debate and which would therefore naturally constitute the basis of any satisfactory legislative inquiry. The British investigations have been quite as broad, and have gone even more into detail than is indicated by the foregoing schedule.

While the question as to the relations of the railroads to the public interests is a large and complex one, yet it is believed that under present circumstances the investigation here outlined would not involve any serious difficulty. Some of the reasons for this belief may be mentioned:

First. The Bureau of Statistics of the Treasury Department and the Interstate Commerce Commission now furnish a large amount of statistical and other data in regard to the general subject.

Second. The most important aspect of the case relates to the reasonableness of rates and the efficiency of railroad

transportation. The Chairman of the Interstate Commerce Commission stated, three years ago, that the question as to extortionate rates is practically obsolete. There is also other abundant proof upon this point. The tendency of railroad freight charges in this country has been steadily downward during the last thirty years both with respect to particular sections of the country and the entire country. The average charge per ton per mile for the United States fell from 1 $\frac{22}{100}$ cents in 1870 to $\frac{7}{100}$ ths of a cent in 1900. The railroad mileage of the country increased from 52,922 miles in 1870 to nearly 200,000 miles in 1902. Besides, as the result of mechanical improvements and advanced administration, the efficiency of the railroads has been enormously increased. Furthermore, the charges for railroad transportation in the United States are much less than in any other country.

Third. The feature of railroad transportation in this country next in importance with respect to the relations of the railroads to the public interests relates to discriminations. This cause of complaint has steadily declined and has practically been eliminated. In reply to a Senate Resolution introduced by Senator Elkins, of West Virginia, on April 16, 1900, the Interstate Commerce Commission reported that of the millions of freight transactions in the United States, only 18 complaints a year on the average for ten years, had come to a hearing before the Commission, of which only 3 $\frac{1}{2}$ a year had been appealed to the courts.

Fourth. The fourth reason adduced in proof of the statement that an investigation such as that here recommended would not involve any insuperable difficulty, consists in the fact that the present complaints against railroad administration relate mainly to the abuse of rate-cutting. This least important of the three causes of complaint here referred to involves remedies in the nature of improved methods of

detecting and punishing such offenses. It is essentially a question of administration and of procedure.

Nevertheless, the public discontent and incertitude in regard to every important aspect of the railroad question and the dangers attending any attempt, at the present time, to devise remedial legislation upon the subject in the absence of a clear understanding of it from every material point of view, unerringly point to the necessity for Congressional investigation.

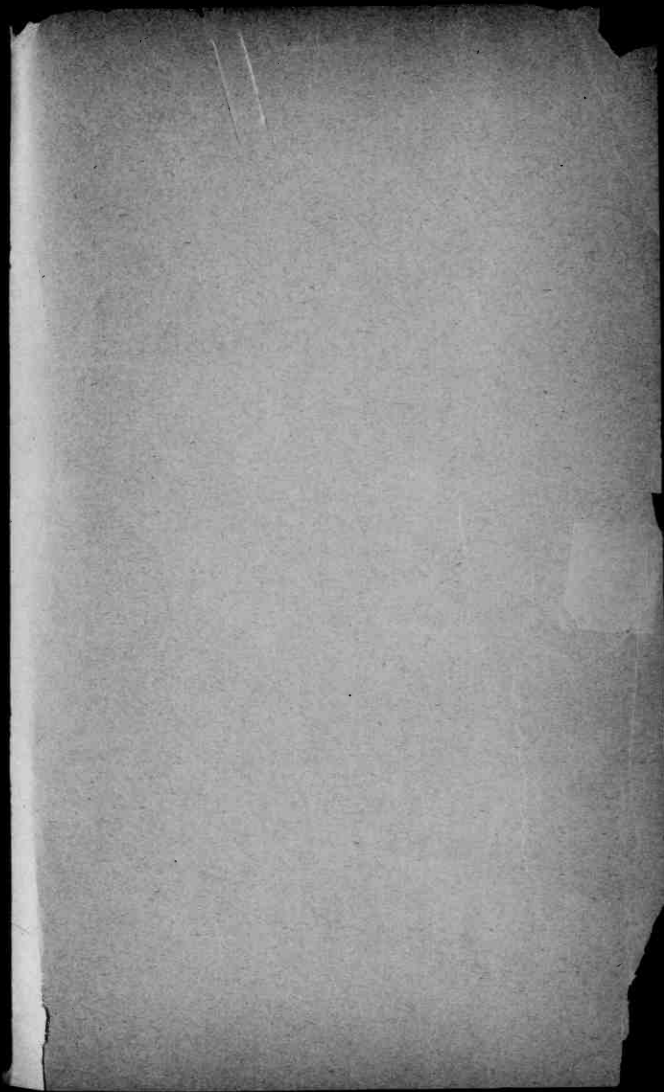
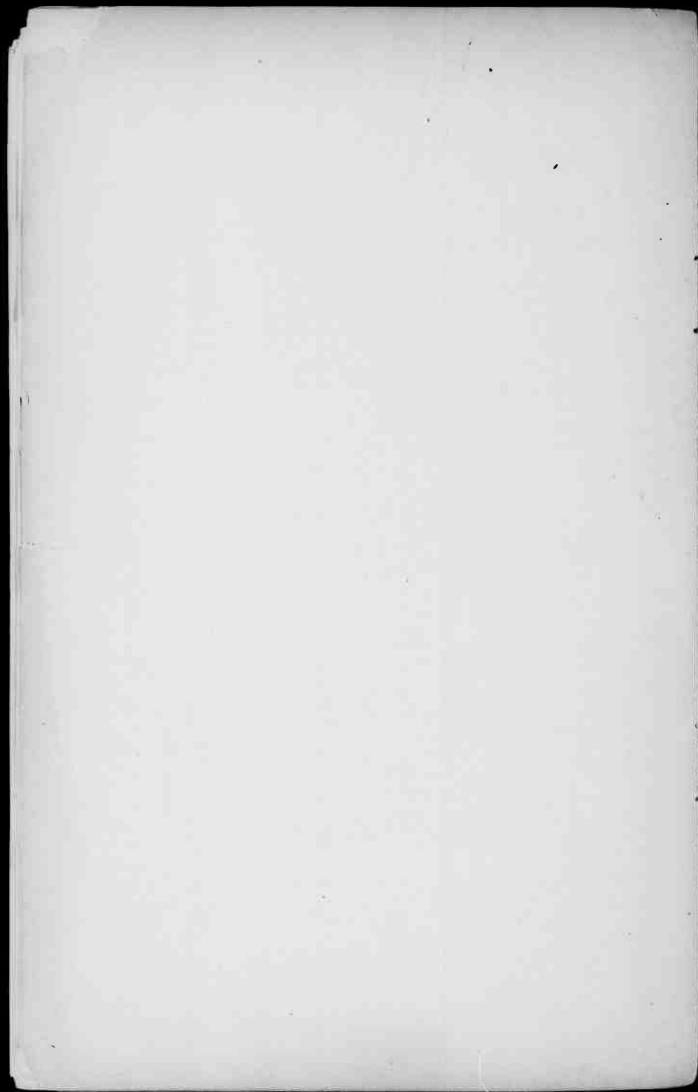
The proposed inquiry is in the highest sense political. It presents a task for practical statesmanship. In order to have influence in the direction of wise legislation it must be entrusted to legislators who in their representative political character will consider the subject with minds illuminated by the sense of official responsibility. Besides, the progress of the investigation, would tend, through its publicity, to correct many popular misconceptions in regard to the real merits of the case.

There is at the present time a disposition to induce Congress to adopt the cherished expedients of visionnaires and of men who seem to be unable to get beyond the purview of special remedies. The subject demands a broader and more authoritative treatment. The old Roman adage, "make haste slowly," is the dictate of prudence concerning all attempts to conform governmental practices to the mutations of time, and never has it pointed more unerringly to the path of wisdom than in regard to the subject to which this statement relates.

WASHINGTON, D. C.,

February 5, 1902.

N. B.—This article contains certain emendations and additions to the article as it appeared in *The Railway Age* of January 31, 1902.



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SPECIAL ATTENTION GIVEN TO QUESTIONS IN REGARD TO
COMMERCE, TRANSPORTATION, NAVIGATION AND INDUSTRY.

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